



Linda Adams  
Secretary for  
Environmental  
Protection

# California Regional Water Quality Control Board

## San Diego Region



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**TO:** Michael McCann  
Assistant Executive Officer

**FROM:** Joann Cofrancesco  
Water Resource Control Engineer  
Compliance Assurance Unit

Jeremy Haas  
Environmental Scientist  
Compliance Assurance Unit

**DATE:** September 19, 2008

**SUBJECT:** Conditional Early Settlement Offer No. R9-2008-0076 to the City of San Diego for the San Diego Convention Center

### Background

To expedite collection of \$69,000 of mandatory minimum penalties (MMPs), on July 16, 2008 the Prosecution Team sent Early Settlement Offer No. R9-2008-0076 to the City of San Diego to resolve 23 MMP violations of Order No. R9-2003-0050, NPDES No. CA0109029, *Waste Discharge Requirements for Groundwater Extraction Waste Discharges to San Diego Bay from the San Diego Convention Center, San Diego County*. The violations occurred between August 2004 and June 2007.

On August 13, 2008, the City of San Diego accepted the "Offer to Participate in Expedited Payment Program" and waived the right to a hearing before the Regional Water Board to dispute the allegations of violations described in the Conditional Early Settlement Offer No. R9-2008-0076.

On August 14, 2008, the Regional Board posted on its web page a notice regarding the Conditional Early Settlement Offer and Waiver and accepted comments through September 15, 2008.

The violations subject to the Settlement Offer include base neutral compounds (one out of eight samples taken from 2004-2007 exceeded the effluent limit), cyanide (two out of 16 samples taken from 2004-2007 exceeded the effluent limits), hydrogen sulfide (one out of 48 samples taken from 2004-2007 exceeded the effluent limits), and copper (twelve out of 48 samples taken from 2004-2007 exceeded the effluent limits).

The City of San Diego is no longer discharging ground water extracted from beneath the San Diego Convention Center directly to the Bay. Instead, it is currently discharging the extracted groundwater to the City of San Diego Metropolitan Wastewater Department's sewage collection system for further treatment at the Point Loma Wastewater Treatment Plant.

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Both the sewage collection system and the quality of the treatment plant's effluent are subject to State Board and Regional Board orders. The City of San Diego is required to operate and maintain its sewage collection systems to prevent sanitary sewer overflows and spills in compliance with requirements of State Board Order No. 2006-0003-DWQ, *Statewide General Waste Discharge Requirements for Sanitary Sewer Systems*. The treatment plant discharges treated effluent to the Point Loma Ocean Outfall under Regional Board Order No. R9-2002-0025, NPDES No. CA0107409. That Pt. Loma NPDES permit has effluent limitations for base neutral compounds, copper, and cyanide based on the California Ocean Plan. Contribution from the convention center dewatering is not expected to result in violations of Ocean Plan standards. The City's treatment plant is meeting its discharge effluent limitations for these constituents.

### **Comments Received**

To date, two letters in opposition of the settlement have been received. The opposition letters are from Karan L. Zopatti and Cynthia Conger. Ms. Zopatti and Ms. Conger urge the Regional Board to impose the maximum liability for the violations as a way to hold the City of San Diego accountable for discharges of contaminants into San Diego Bay and for presumed economical and ecological losses in San Diego Bay.

Both Ms. Zopatti and Ms. Conger also object to the City's current practice of sending extracted groundwater from the San Diego Convention Center to the Point Loma Wastewater Treatment Plant. Ms. Zopatti argues that this merely transfers pollution from San Diego Bay to the Pacific Ocean. Ms. Conger argues that this will overburden the sewage collection system and recommends the extracted groundwater be used to irrigate landscape.

### **Analysis**

There is no apparent evidence that the San Diego Convention Center contributed to the contamination in the groundwater under the San Diego Convention Center. There is no apparent evidence that the City of San Diego added additional pollutants to the groundwater prior to discharge to San Diego Bay. The source of the elevated concentrations of base neutral compounds, cyanide, hydrogen sulfide, and copper in the groundwater pumped from the beneath the San Diego Convention Center has not been fully evaluated. Some may be drawn in from San Diego Bay water, while additional pollutants may be caused from shore-side activities or naturally occurring groundwater conditions. There is also no evidence that the San Diego Convention Center discharge has caused economical or ecological losses in San Diego Bay.

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**Recommendation**

Based on analysis of the factors required to be considered pursuant to Water Code Section 13385, the mandatory minimum penalty of \$69,000 is an appropriate liability for the circumstances of the effluent violations for the discharge of groundwater extracted from beneath the convention center. The City has implemented an alternate disposal method that does not threaten receiving waters and is in full compliance with its permit conditions. Subsequently, the NPDES permit for the extracted groundwater has been rescinded, so that the City may no longer discharge to San Diego Bay through the Convention Center outfall. There is also no evidence of significant ecological or economic damage caused by the violations. The Assistant Executive Officer should execute Early Conditional Settlement Offer No. R9-2008-0076, which accepts payment of the minimum penalty.

Place ID: 255226  
Reg Msr: 347232